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APPENDIX RSI-13

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THE

PROVISION

OF

GOVERNMENT INFORMATION

— Appendix RSI-13.

D. F. WALL

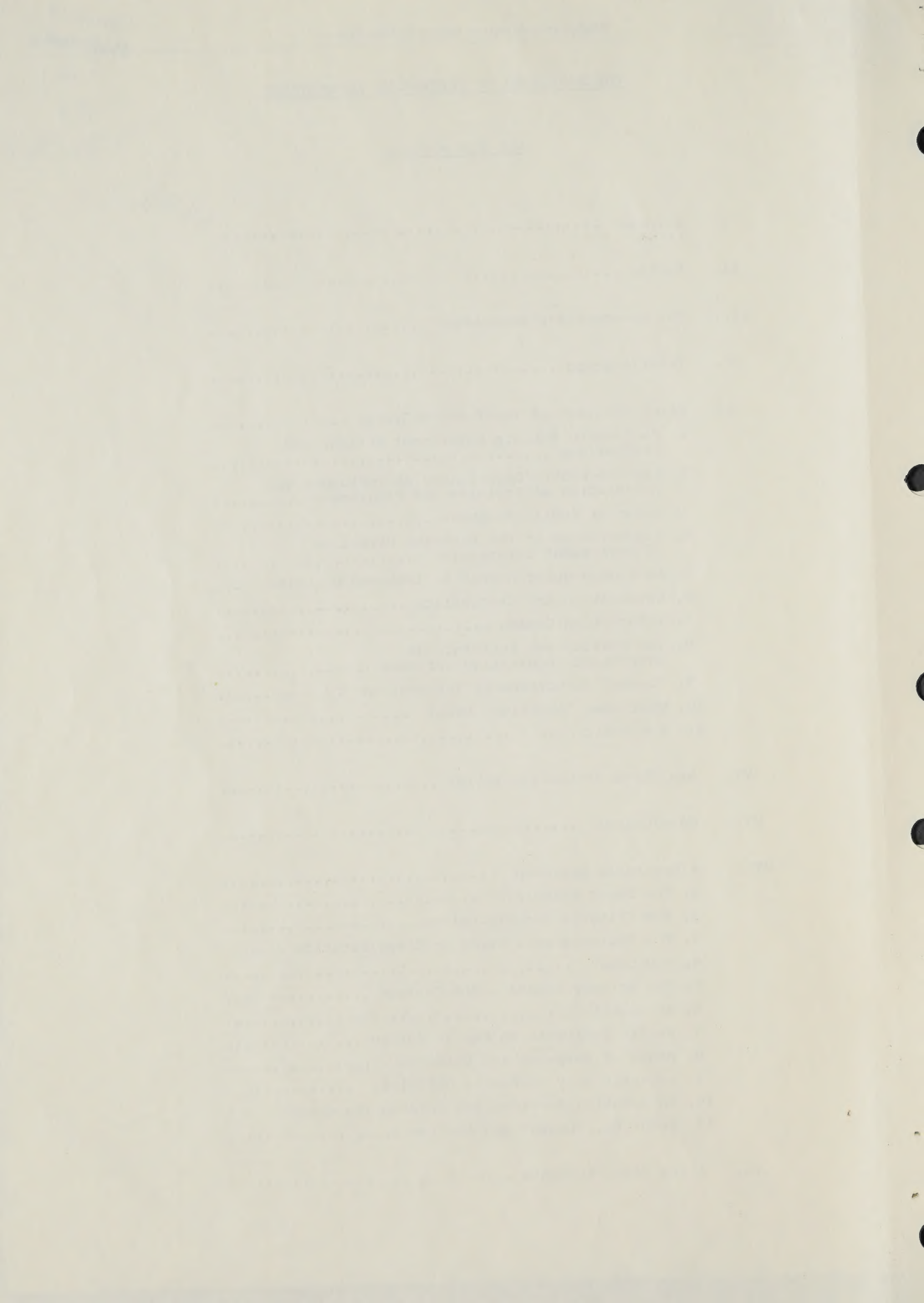
110 Canada PRIVY COUNCIL OFFICE

APRIL, 1974



THE PROVISION OF GOVERNMENT INFORMATIONC o n t e n t s

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As a starting point, and as a general frame of reference within which the problem of confidentiality in government might realistically be deliberated, I would propose the following statement made by the Secretary to the Cabinet in a paper which he presented to the Royal Society of Canada in St. John's, Newfoundland, in June of 1972, entitled "Official Responsibility, Private Conscience and Public Information": *but this*

"We must examine Confidentiality and secrecy in government to ensure that they meet, as far as it is possible to do, 'the community's ideas of what is just' and the community's ideas of what is right practice within a democratic system... If the argument is right--as I am deeply convinced it is--that there must be areas of privacy--or secrecy--in government, we must do two things. One is to ensure that those areas are, in practice, kept to the minimum that is really necessary for national security and good government. This will involve some change both in our laws and also in our practice. It is possible that our law should in some cases distinguish, as it does not now do, between kinds of classified information and also between the position of the official who reveals such information and that of the newspaper or private citizen who publishes it. It is probable that our concepts and our practice should develop more strongly than they have the distinction between factual information on the one hand and the views, advice and recommendations of officials or ministers on the other. The facts that are relevant to a policy determination should, to the greatest degree possible be made public. Advice and recommendations leading to decisions should not. A clearer distinction in this respect might do much to establish the kinds of thing, as distinct from the subject areas, in respect of which confidentiality is legitimate and proper for the normal processes of government. The second thing we must do is equally important. It is to establish acceptance that the resulting situation is reasonable and is necessary for effective government in a free society." *What does this mean?*

### III. The Government's Commitment

The first recommendation of the Task Force on Information, in its report to the Government on August 29, 1969, was that

"The right of Canadians to full, objective and timely information and the obligation of the State to provide such information about its programmes and policies be publicly declared and stand as the foundation for the development of new government policies in this field ..."

This recommendation, together with fourteen others made by the Task Force, was accepted in principle by the Government, as confirmed by the Prime Minister in the House of Commons on February 10, 1970 (Hansard, p. 3405). *What does this mean?*





#### IV. Interim Steps

In the interim, a number of steps have been taken to meet this commitment:

- (a) Information Canada was established in early 1970;
- (b) Cabinet Directive No. 45 - "Notices of Motion for the Production of Papers" was issued to departments and agencies

"to enable Members of Parliament to secure factual information about the operations of government to carry out their parliamentary duties and to make public as much factual information as possible consistent with effective administration, the protection of the security of the state, rights to privacy and other such matters...."


(The Directive was tabled in the House of Commons, briefly debated, and referred on March 15, 1973, to the Joint Committee on Regulations and other Statutory Instruments, where it is currently under study.)

- (c) Cabinet Directive No. 46 - "Transfer of Public Records to the Public Archives and Access to Public Records held by the Public Archives and by Departments" was issued to all departments and agencies in June 1973

"to implement the policy of making available to the public as large a portion of the Public Records of the Canadian Government as might be consistent with the national interest".

(This policy had in fact been in effect since May of 1969, establishing the so-called "30-year rule", and was in part the basis on which a decision was taken, and announced by the Prime Minister on April 28, 1972,

"that the Minutes of Cabinet and the Cabinet War Committee for the period from the start of 1942 to the end of the Second World War have been turned over to the Dominion Archivist to be made available for public examination".)



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- (d) The Standing Senate Committee on National Finance has completed a detailed study of Information Canada "to see how it operates and functions and to see how successful it is in achieving the directives put to it by Parliament". The Committee's report is expected shortly.
- (e) Departments and agencies have been asked to take cognizance of the need for memoranda to Cabinet to include a plan for communication to the public of the policy being proposed, in sufficient detail that its suitability may be assessed.

#### V. Major Failings of the Present System

Despite the improvements in the provision of government information inherent in or anticipated by the actions listed above, I found a surprising commonality of view among the sixty-odd non-governmental people and the 100-odd public servants whom I consulted, indicating a number of areas of serious inadequacy. I have attempted to draw these many views together under the following general headings. Suggested means of dealing with these inadequacies are set out in Sections VII and VIII.

##### 1. Failure to Explain Government Actions and Initiatives

Almost without exception, the persons interviewed considered that government did not do an adequate job of explaining its policies and programmes to Parliament and the public, either during their formulation or after governmental decision. In general, attempts to explain the complexities of large and important issues such as inflation, unemployment, the cost of living, the energy crisis, welfare and assistance programmes, and particularly the interrelationships between and among these issues, had not been successful. Apart from this alleged failure to explain the problems facing the country and its citizens, there was equal concern at the apparent failure to delineate clearly the rationale underlying the policies and programmes initiated to deal with the problems, and how that rationale fitted into the larger context of the government's major policy thrusts.

In more specific terms, it was pointed out that opportunities to explain and clarify (and get credit for) government initiatives were often lost because of a propensity of some Ministers and their offices to seek maximum publicity for themselves and their programmes, often to the exclusion of other programmes. A related concern, particularly among government back-benchers, was that this kind of inter-Ministerial rivalry and the lack of a coordinated approach often resulted in provincial governments receiving most of the publicity and credit for projects initiated and largely funded by the federal government. (It should





be noted that some action has recently been taken to achieve better co-ordination.) In general, government back-benchers felt that they could be vastly more useful, both as elected representatives and as supporters of the government, if they were more fully informed as to the problems and issues facing the government and as to the government's intentions in meeting those problems and issues.

2. Lack of Public Opportunity to Influence the Formulation of Policies and Programmes

Accepting the difficulty of clearly defining such concepts as "participatory democracy", there was nevertheless substantial common complaint among those interviewed that government did not provide either adequate information or opportunity to permit the public, whether individually or through Parliament, to influence the formulation of government policies or programmes which directly or indirectly affected them as voting and taxpaying citizens. A related concern often expressed was the extent to which special interest groups, most often but not always of a financial or commercial nature, appeared to be granted considerably more extensive access both to information and to senior government personnel than did concerned individuals, journalists, or members of Parliament, or the government benches as well as those of the Opposition.

In recent years, successive governments have made increasing use of White (and Green, and Orange) Papers, with a view to enabling the public better to understand the problems involved in formulating policies in relation to major federal functions such as national defence, external relations, energy, social welfare and so on. Their function has been essentially to inform, to provide a basis for public debate, and to provide the opportunity for public response and "feedback", in the light of which government decisions might be taken in accordance with public wishes. While most of those interviewed considered that such Papers were useful and that more of them should be issued, they also felt that there was inherent in many of them such a degree of prior government commitment to a particular means of dealing with the problem that there was little room left for modification based upon public response. Such papers tended to be rather formal and formidable "one-shot operations" to which people did not readily respond, and as such were not an adequate substitute for a more continuous flow of information, even if the primary effect of such a flow were only to explain more clearly the difficulties and complexities involved in arriving at policy decisions, and to permit the public at least a sense of shared responsibility in dealing with them.





### 3. Means of Public Response

In attempting to analyze this apparent gulf between government and the public, most observers considered a central cause to be a lack of adequate means by which people could make known their responses to, and concerns about, government initiatives, not only through a desire (and an aroused expectation) to "participate" in government, but far more often simply to know "what the hell do I do about this?" Complaints ranged from the failure of field officers to respond to, or to inform their departments of, local attitudes and concerns, to the lack of a central telephone answering service in the House of Commons by which at least a sense of contact could be established when members were away from their offices. Several Members of Parliament quoted constituents saying things like:

"The bloody government provides Zenith telephone services to help us pay our taxes, but I have to take a bus seventy-five miles to straighten out my unemployment insurance, and when I get there the guy's out playing golf!"

or, "Mais, M'sieu Député, il m'a dit, cet officiel là, que si je ferais une erreur dans cette application pour la GIS, j'irais en prison!"

or, "I go to see the Health and Welfare guy because every basement in our neighbourhood has rats, and when I finally get to see him he just says, 'Rats are provincial'."

A major concern centred around the difficulty of contacting federal regional offices by telephone, particularly but not exclusively in the larger urban centres. For example, a survey conducted in 1971 indicated that there were 389 telephone numbers for federal government offices in the Greater Vancouver area, most of them, but not all, listed under "G" for Government of Canada. In the Quebec City region, 639 of the 672 federal telephone listings did not identify the department concerned. While there may have been some improvement since then, practically all of the Members interviewed urged the establishment of central switchboard facilities which could assist citizens in contacting the federal offices or officials who could provide information or guidance as to the problem at hand.

The majority felt that these basic requirements for information, advice and guidance could and should be met by federal employees in the regions and by regional employees of Information Canada, in cooperation with local and provincial government representatives including M.P.s, M.L.A.s, and municipal officials, and also with community organizations such as information centres, libraries, union halls, service organizations, churches, radio and television stations, and local newspapers. This kind of cooperation is necessary for



a number of reasons, important among which is the fact that to a great many citizens "government is government" - they are either unable or unprepared to draw the necessary distinctions among the various levels of government and their areas of sole or shared jurisdiction. It seemed to many that this was an area in which federal leadership in stimulating the necessary "interconnections" was most desirable.

Almost without exception, those observers who were knowledgeable of federal regional operations stated that federal representatives in the field were seldom integrated within their communities, either professionally or socially, and that they often seemed unaware of their obligation to represent the federal level of government as a whole, and not simply their department or directorate. They were not expected to be repositories of complete knowledge or unfailing wisdom about the whole federal structure; but they were expected to be reasonably positive in their sensitivity and responsiveness to local concerns about government, and to assist their communities in assessing the effects and effectiveness of federal functions and programmes in the area - "on the streets" as well as in their offices. It was recognized that by no means all the fault lay with regional employees, as their hands were often tied by restrictive regulations imposed by seniors in Ottawa. "Service, like charity, begins at home", said one senior official, "but we seem to have lost sight of our basic duty, to serve the public".

4. Inadequacies in the Form and Direction of Government Information

When asked what he considered the most serious failing in the provision of government information, a crusty senior editor replied, "You guys just don't know how to target your shots!" He went on, in language considerably more colourful, to criticize the government's tendency to provide far too great a volume of data, without selectivity, summary or synthesis, and often in a form either unattractive or unintelligible to those who desired it. This criticism was made again and again by Members of Parliament, Senators and journalists who simply did not have the time to winnow through mounds of largely unsolicited and ill-directed copies of ministerial speeches, press releases and other announcements of government action or intention which daily landed on their desks. They considered the waste involved to be unjustifiable, and the results often impossible to cope with.

A further objection was made concerning information directed to (or not directed to) groups such as the rural and urban poor, and people of limited educational attainment. Such groups tended to be bewildered both by the form and language in which information was presented concerning taxes, unemployment insurance, pensions, welfare benefits and other such matters which touched their lives very directly. While the difficulties of translating "bureaucratese" into simple and understandable terms was recognized, bearing in mind the legal and administrative complexity of some of these matters, most persons interviewed considered





that more effective assistance in guidance, explanation and "translation" should be provided by federal representatives in the field, including representatives of Information Canada. With some notable exceptions, departmental field officers at the "grass-roots" level were regarded as unresponsive, not very "service-oriented", and often woefully ill-informed as to the rationale underlying the programmes they were implementing, and their relationships to other similar programmes.

##### 5. Lack of Regular Access to Informed Officials

Most of the journalists interviewed agreed that their profession shared an obligation with government to explain governmental actions and policies to the public, and many appeared to take this obligation seriously as an essential part of their craft. They felt, however, as did Members of Parliament (with rather more legitimacy), that they were almost as seriously hindered as was the general public by their inability to have regular and informal access to knowledgeable middle and senior management officials of the public service, both in Ottawa and in the regions, particularly during the formulation of policies and programmes. While Members and most journalists recognized the difficulties faced by officials in providing full and substantive information prior to decisions by Ministers, virtually all considered that a good deal of useful background information could be provided during this period which would make possible a much better public understanding of the underlying issues and difficulties, without jeopardizing the government's freedom of choice or its accepted need for objective advice and private deliberation. The same principles should apply more strongly after governmental decision and during the implementation of a policy or a programme. In their view, more regular access to officials at middle and senior levels would, over time, reduce the growing suspicion and skepticism between government and Parliament, and government and the media, and would help to establish clearer and more acceptable ground-rules as to attribution, adversary partisan use of information, withholding publication in the public interest, publication of "leaks", and so on.

In summary, it was considered that the tradition of "civil service anonymity" had been carried too far, and was no longer as necessary or as justifiable as it once was, bearing in mind the substantial influence which middle and senior officials now had on the determination of policies and programmes. Given that public servants should not become the centres of public controversy in which they were unable to defend themselves, there was nevertheless a sizeable tract of middle ground, as yet largely unexplored, in which the information functions of government, Parliamentarians and the media could be better performed if more regular and substantial contacts with responsible officials could be made and sustained.





## 6. Colouration and Credibility

"It is important that government information be factual and objective, and not loaded!"

- a senior editor

"Manipulation of information is poison, for any government"

- a senior television journalist

"The government's failure to admit to any error is just not credible"

- a respected columnist

"The tendency to cover up scandal, graft and conflict of interest in the public service is as traditional as it is unjustifiable - but there's far more of it than appears, and it should be exposed by the government."

- another respected columnist

There appeared to be some confusion, and occasionally some conflict, concerning the separate but related governmental obligations "to inform" and "to persuade", between the concepts of "information" and "propaganda". The common practice seemed to be to draw a rough line between the two, and proceed on the basis that the former belonged to officials (non-partisan) and the latter to Ministers and their staffs (partisan). In fact, it is by no means that simple. The most telling point that was made, however (and it was made by many), was that nothing is as persuasive or as informative as a combination of clarity, objectivity, simplicity and pertinence. These qualities were often found lacking in governmental statements, press releases, speeches, pamphlets, inserts and so on, sometimes to the extent that credibility was seriously strained, and the objective lost.

An equally serious objection was made in this vein concerning the apparent unpreparedness of government or its spokesmen to admit to any error in judgement or action, and the concomitant inclination to project an image of consistent infallibility. An amalgam of the comments of a dozen or more observers would look something like this:

"The whole public image of government needs to be humanized. The public recognizes that it's not a sign of weakness to be unsure, and they know damn well that governments are sometimes wrong. To admit it occasionally would add to government's credibility, not detract from it".



It was in this context that several observations were made about the almost instinctive closing of public service ranks in situations where there was a conflict of interest, or graft involving public money. One observer in particular urged that the government take measures to inform the public of such instances as one of the most effective means of deterrence, and of forestalling the need to explain after the fact, in the tainted atmosphere of "exposé".

#### 7. Information Canada

Inevitably, discussions of the apparent failings set out above devolved into discussions of Information Canada, often described (however inaccurately) as "the mechanism you guys set up four years ago to solve all these problems!" Some dismissed it out of hand as "hopelessly inefficient" or "an unmitigated disaster from the beginning". Others would describe occasions on which they had sought information or guidance without success or, having encountered ignorance and unaccountable delay, had simply given up in frustration and anger. However, a significant number of others, although they too had objections, expressed a somewhat more positive view, not so much in relation to Information Canada's past performance as to its potential. First, their objections:

- (a) that the present terms of reference were unclear;
- (b) that its relationships with departments and agencies were so little developed that it was not given much substantive information to disseminate;
- (c) that, as a result, the initiatives it did take were often annoying to departments and unsatisfactory to its public clientele;
- (d) that in any event it could not possibly direct, control, operate or even fully coordinate substantive information programmes in defiance of statutory departmental and ministerial responsibilities and "dollar control";
- (e) that its officials did not have sufficient knowledge of the nature and substance of government operations; and
- (f) that, for many of these reasons, it was not attracting staff of the necessary quality to make it credible and effective within its existing terms of reference.

As to Information Canada's potential, most of the more positive commentators saw it as a central "mechanism of availability" of, or delivery system for, information provided largely by departments, and as a much-needed "mechanism of two-way response" in the regions. To perform these functions, Information Canada would in their view require clear direction and support, but more important it would have to earn the respect and cooperation of departments by demonstrating that it could serve certain of their purposes, and those of the government as a whole, better and more economically than could the departments and agencies themselves.





*Notes*

Several members of the Standing Senate Committee on National Finance (which has made a detailed study of the functions and operations of Information Canada over the past six months, and will report shortly) felt that the organization could assist substantially in reducing wastage, particularly in relation to unsolicited and often unwanted information provided by departments, agencies and ministers' offices. To do so it would need to maintain a running index of available government information, for quick and efficient retrieval and dissemination on request. The example most often given was the annual reports of departments and agencies, which are often required by statute. "Who ever reads them? How much do they cost? Wouldn't a few copies in the Parliamentary Library and in InfoCan be adequate? They don't tell much of the real story anyway..." Such were the questions and comments of several Senators and members of Parliament - admittedly jaundiced, but nevertheless firmly-held views.

In summary, it was the view of the more positive observers that Information Canada could play a useful role, but that the role would have to be negotiated and agreed with the various departments and agencies, and defined and made known in the broader context of an overall, better-integrated approach to the provision of government information.

#### 8. The Quality and Influence of Government Information Officers

Given that a central service organization such as Information Canada could not be expected to assume all of the information functions of departments and agencies, or of Ministers' offices, discussion usually turned to departmental information directorates and the quality of their performance. A constant strand of concern running throughout these many discussions related to the apparent lack of effectiveness of governmental information personnel, particularly in relation to their growing numbers. Several reasons were cited:

- (a) with few exceptions, departmental directors of information (or press officers, or media relations officers, or whatever) had no close and continuing access to or participation in the processes of policy formulation, programme development or substantive decision-making, and were thus seriously inhibited in understanding, describing or explaining departmental (or governmental) attitudes, initiatives or actions;
- (b) information personnel often tended to be used only as "cosmeticians" or "postmen" in the packaging and delivery of departmental faits accomplis, or as apologists for initiatives that had been ill-conceived or poorly explained, or had otherwise gone awry;



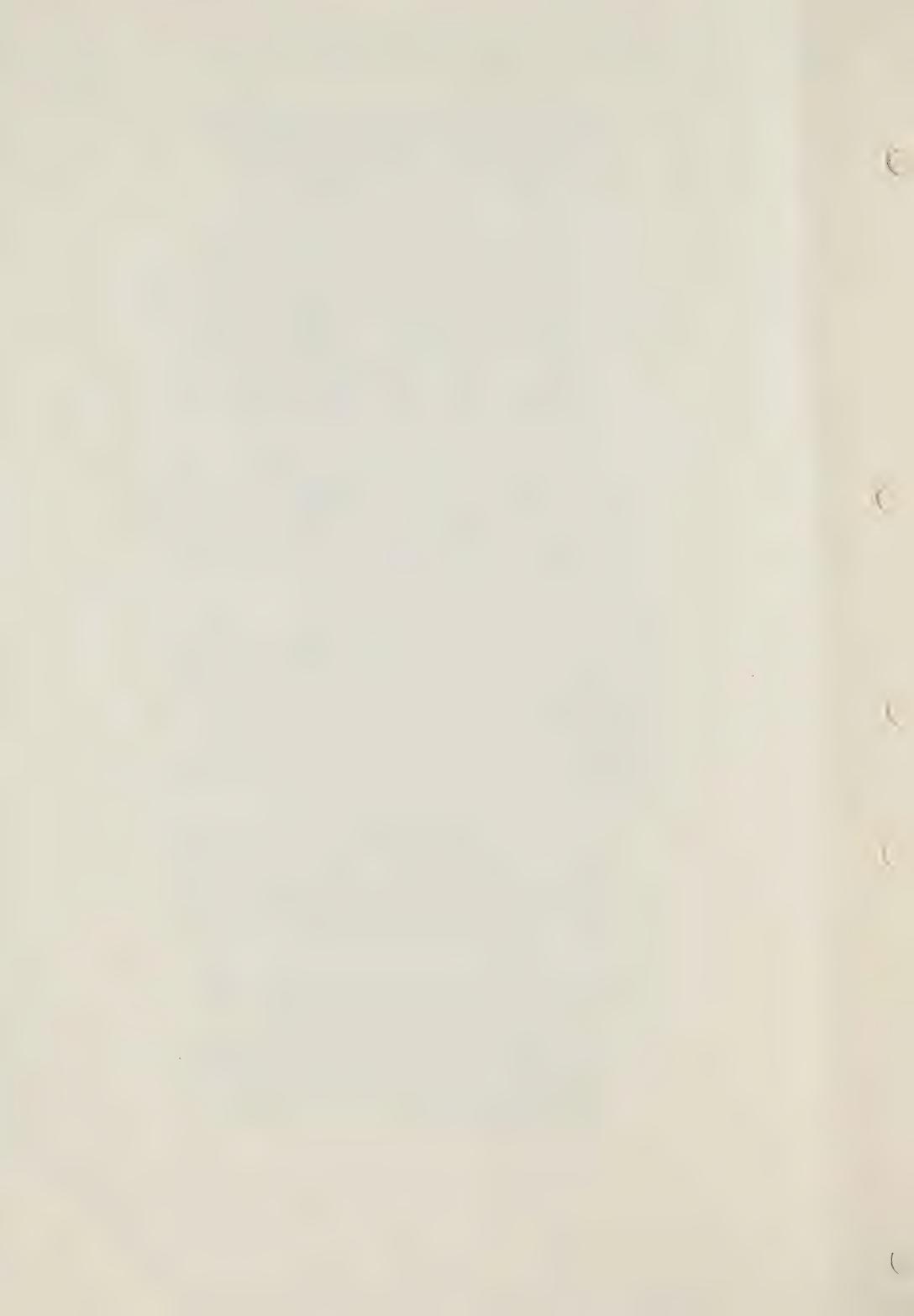
- (c) many senior and middle-range information officers were former "failed" journalists who had sought government employment as a kind of sinecure, and commanded neither the respect nor the confidence of the journalistic community or of many of their peers and seniors in government;
- (d) the development, as a matter of policy, of a presumably professional "information community" within the public service was having the effect of isolating the "community" rather than integrating its members and their functions into the broader functions of public service and government as a whole. The emphasis appeared to be more upon developing "career patterns" in terms of more pay, higher classification and increased numbers than upon the essential function of informing the public on the basis of a thorough knowledge and understanding of departmental and governmental operations.

In fairness, it was occasionally admitted that certain of these criticisms might equally be made of other groups in the public service. However, their conviction was that the Government's obligation to explain its objectives and actions was of such a relatively high order, and was so pervasive of the whole function of government, that its fulfilment deserved special attention and emphasis.

#### 9. "Leaks" of Government Information

A favourite topic throughout these discussions concerned "leaks" of government information, their causes and their effects. Not surprisingly, many journalists had no strong objection to such actions, either on moral or practical grounds, as "leaks" were usually grist to their professional mills. Observers in all categories, however, were prepared to speculate thoughtfully as to the motivations underlying "leaks", and the consensus was that, in the main, they resulted from variations and combinations of the following attitudes and situations:

- (a) too rigid a pyramidal structure of authority within the public service, which did not permit the often relevant views, convictions and recommendations of junior (or younger) staff to reach the desks and minds of seniors and deputies, and the consequent feeling, often shrouded in resentment and frustration, that their conscientious efforts "rotted in the pipeline";
- (b) public servants having political sympathies with Opposition Parties, or with the views of individual Members of Parliament;
- (c) an apparent shift in younger loyalties away from established institutions, structures and practices and in the direction of "causes", especially those involving human rights (often minority rights), and the question of national independence;





- (d) the Oath of Office and Secrecy taken by all public servants was so restrictively worded as to lose credibility, especially among the young, well-educated and well-motivated (but also impatient) public servants. On the other side of the coin, the Oath was not backed by sanctions other than corrective administrative action, and such action was rare and inconsistent;
- (e) many of the current security regulations, including the use of the security classification and screening systems, were inappropriate and irrelevant in their application to subject matter that had little or nothing to do with "national security" in any believable sense. The apparently indiscriminate application of these strictures tended to draw the whole system into disrepute, with the result that it was flouted or completely ignored;
- (f) more often than suspected, (and this from a widely read and respected journalist who was in a position to know), leaks were made out of a happenstance sense of mischief by persons who had no "axe to grind", no possible gain, nor any real knowledge or understanding of the nature or implications of their act, other than as a prank which might "upset the big-shots";
- (g) a conviction on the part of ministerial assistants (occasionally Ministers themselves?) that a judicious "leak" at the right time and in the right circumstances would improve the image of a particular Minister or a policy, programme or initiative for which his Minister was responsible, would improve his Minister's bargaining position at the Cabinet table, or would curry favour with a view to building up credits for a later date.

It was not overlooked by some of the more skeptical (not to say perceptive and well-informed) observers that there was a possible relationship in pattern and motivation between this latter kind of "leak" and others which emerged at lower levels in the hierarchy - i.e. "if they can do it, why can't I? After all, we work for the same boss - the taxpayer!"

While it would have been inappropriate to comment in detail on speculation of that kind, I did take the opportunity wherever possible to point out the negative and damaging aspects of "leaks" - for example:

- (a) they usually arouse more interest than they deserve, interest in the fact of leakage as much as in the substance of what is leaked;
- (b) almost invariably the substance of the leak provides an incomplete and often distorted and misleading view of a problem or situation;
- (c) they can result in serious inequity as between groups and individuals - e.g. leaks concerning the Budget, government land purchases, export negotiations, contracts, possible price controls or rationing, etc., all of which could result in undue profits or losses, market instability, and in general an atmosphere of doubt, suspicion and loss of confidence;



- (d) leaks are very wasteful, in terms of the time, effort, energy and taxpayers' dollars that are expended - not only in attempting to clarify a situation which has been incompletely and often inaccurately exposed, in an atmosphere of some drama, speculation and heightened expectation, but also in the laborious business of trying to determine who was responsible and why;
- (e) the occurrence of leaks tends to distort the orderly approach to public and government priorities; leaks are often an excellent example of "the urgent shoving aside the important";
- (f) they are at best an inefficient way of informing the public, or of achieving any other public purpose.

The usual response to these admonitions was "Okay - those are sound enough arguments. Why the hell doesn't the government explain them, rather than moralizing about breaches of the Oath?"

10. What does "Security" mean?

Throughout these discussions a number of plaintive questions kept recurring: "What do you mean by 'security'?" "What is 'classified information'?" "Is the classification system workable?" "Does anybody ever declassify anything?" "Does everyone need to be screened?" "What is a 'government secret'?" It became increasingly apparent that much of the language which purported to describe the elements of confidentiality in government was at best open to question, and at worst a serious barrier to understanding and credibility.

Much of the difficulty lies in the fact that the present system of security classifications was devised in the post-war years, essentially as one of the protections against foreign espionage, and very much in the context of "national defence" and "national security" as concepts of considerable importance during the "Cold War". The definitions of the classifications themselves were based on largely military considerations, and are couched in such terms as:

"... cause exceptionally grave damage to the nation ..."

"... plans for the defence of the nation ..."

"... new and important munitions of war ..."

"... new or proposed defence alliances ..."

"... plans for the defence of areas ..."

"... new and important scientific and technical developments pertaining to national defence ..."

"... reports ... which would be of advantage to a foreign power ..."



It was often argued that such considerations are largely irrelevant in the present and foreseeable atmosphere of *détente*. The more realistic, however, recognized their continuing validity within certain definable areas such as defence, security and intelligence, and some aspects of foreign affairs, but seriously questioned their application, and the imposition of the attitudes and procedures surrounding them, in other areas of government administration. These views were often echoed by experienced and senior public servants, many of them in the "security community" itself. Unfortunately, the regulations currently in force fail to delineate adequately information procedures used against espionage from procedures used to safeguard information which must be confidential for a myriad of other reasons.

Then there was the related question of "security clearance" required to be granted to public servants who need to have access to "classified information" in the performance of their duties. Again, this procedure had its origins in the Second World War and post-war years, its purpose being to ensure the loyalty and reliability of public servants who handled information which, if allowed to fall into the hands of an inimical nation, could threaten Canada's national security. The policy and procedures were last revised in 1963, and the underlying principles (with some exceptions, e.g. concerning the review of individual cases) have remained essentially the same since 1948. They are currently under review by the authorities concerned.

The central objection to these procedures was that that they were being applied to increasing numbers of public servants, and without due discrimination. The only test is whether the employee has, or is likely to have access to "classified information"; if he or she has, a security clearance is necessary. The basis for the clearance is an investigation of the subversive and criminal records of the R.C.M. Police and in cases where access to information classified "Top Secret" (or "Secret" in most instances), a further "background" investigation must be made by the R.C.M.P. or other competent authorities. A judgement is then made by the employing department or agency as to whether clearance can be granted. Apart from the dubious relevance of these measures in many areas of government administration, and their inhibiting effect on the provision of information to the public, as well as on prompt staffing, there was a good deal of concern as to their cost.

Because of the close relationship between the security classification system and the security clearance procedures, there was little doubt that both were in need of serious re-examination, in the context of the freer provision of information as well as in that of economic and efficient government operations. No one seriously questioned the need for sensible security precautions and procedures, but a great many questioned the efficacy of their present form and application.





A related question was raised concerning criminal and administrative sanctions for the unauthorized release of classified information. As I have suggested earlier, there was almost universal confusion about the actual effect of having breached the Oath of Office and Secrecy, and even more about the application of the Official Secrets Act - e.g. "When is a secret 'official'?" Despite the confusion, the consensus was that there ought to be realistic sanctions, both in law and in administrative practice, but that they must be clear and equitably applied.

#### 11. The Basic Flaw

The complaint most often made and most intensely expressed concerning the provision of government information was that the practice of the Canadian government (although enshrined neither in principle nor policy) was to release only that information which was considered advantageous or harmless, and automatically to withhold the rest. The operative principle seemed to be "When in doubt - classify it!" Virtually all of those interviewed strongly felt that this basic practice, and the attitudes of cautious, defensive and often self-righteous exclusivity which surrounded it, was the primary barrier to the fulfilment of the government's obligation to inform the public as to its intentions, policies and programmes. Parliamentarians, academics, journalists and public servants alike accepted that a judicious balance must be struck between uninhibited openness and excessive secrecy, and that there must be certain categories of information which should, for varying periods of time, be withheld from publication in the public interest. They equally agreed, however, that the onus must be upon government to justify the withholding of such information, and that the reasons for withholding should not only be clear and public, but publicly understood and accepted. Information which did not fall within those categories should be made available to Parliament and public alike, in suitable form and with reasonable economy and efficiency. Many stressed that the adoption of this principle as the basis of the government's information policy was essential if the government were to fulfil the obligation it has undertaken to honour

"the right of Canadians to full, objective and timely information ... about its programmes and policies".

Indeed, several of those interviewed went a good deal farther, and argued that the public's "right to know" could only be satisfactorily served by the passage of a "Freedom of Information Act" such as that in the United States or Sweden, or by enshrining the freedom of information in the Constitution as a fundamental human right of the same order as freedom of speech or freedom of assembly. Despite the obvious philosophical and other attractions of such an approach, my counter-arguments were essentially these:

- (a) that neither of those countries had at the heart of their political systems the concepts of collective responsibility or Cabinet solidarity, which necessitated a degree of "built-in" confidentiality in government decision-making;



- (b) that a legalistic and essentially adversary approach to the release or non-release of government information had in both the United States and Sweden led to an elaborate bureaucratic system of seeming to adhere to the letter of the law while avoiding much of its spirit; and
- (c) that Canada could best benefit from the experience of these two countries by approaching the matter on the basis of sound principle and good policy, out of which good law might emerge if law were eventually deemed to be necessary.

#### VI. Are These Criticisms Valid?

Depending upon one's point of view, it is to be expected that many of the direct or implied criticisms set out above will be regarded as tiresome, predictable or unfair. Undoubtedly there are counter-arguments to each of the criticisms, perhaps better ones than I was able to make whenever I felt that the criticisms being made were unfair or ill-informed. I can only say that the views reflected in the preceding sections are the result or residue of honest debate and often spirited argument. If they are unfair, the fault lies as much with me as with the critics. A more important question is -- are they valid?

I think they are. As the list of persons interviewed or consulted will suggest, they and their views represent an impressive range, depth and variety of knowledge and experience and, to me at least, an immensely reassuring body of goodwill. With only a very few exceptions, the people concerned responded with frankness, candour and honesty, and with an often-stated recognition of the importance of this matter to the essential nature of this country and the quality of the lives of its citizens. I do not think their views can reasonably be ignored if government is to meet "the community's ideas of what is just".

#### VII. Conclusions

The main general conclusions that emerge are these:

- (a) that, for lack of a coherent and comprehensive policy for the provision of information to the public, based on clear and acceptable principles, the process of government in Canada is becoming increasingly difficult for those who govern and increasingly incomprehensible to those who are governed;





- (b) that the governmental function to provide information is in essence woven into and inseparable from the function of government itself. To govern is to inform -- to be well-governed is to be well-informed; and
- (c) that, while the fulfilment of the public's right to information must be balanced against the fulfilment of its right to be protected against the abuse of information, the public also has a right to know the means by which that balance is struck.

My further specific conclusions are that positive and coordinated action is required

- (a) to improve the means of explaining the nature and implications of government decisions and the rationale underlying them, within government as well as in relation to Parliament and the general public;
- (b) to provide better opportunities for the Canadian public to understand the problems faced by government on their behalf, and to influence the ways and means by which those problems are dealt with by government;
- (c) to emphasize that government in Ottawa and in the regions has the obligation to ensure that Canadians have available to them open avenues for the expression of their needs and concerns, and sympathetic response, guidance and assistance in dealing with them;
- (d) to reduce and coordinate the present flow of unsolicited and duplicated information, and to ensure objective, intelligent and intelligible summary and synthesis, in usable and desirable form, directed to those who desire and need it;
- (e) to ensure that the function and obligation to inform is universally regarded as an integral part of the whole function of government and of service to the public, and not as a separate resource to be drawn upon for convenience or for periodic persuasion;
- (f) to clarify and delineate the relative functions of Information Canada and departmental information services, in relation both to the "tactical" explanation of the day-to-day actions of government and to the "strategic" or longer-term provision of information, guidance and response to the general public;



- (g) to explain, both within the public service and to the public in general, the economic and other damage to individuals and to groups that can result from "leaks" of government information, and to develop and publicize effective sanctions for those found responsible;
- (h) to re-examine and re-define the concept of "national security", and the measures required to preserve it, in accordance with current and foreseeable concerns, situations and circumstances.

#### VIII. A Desirable Approach

##### 1. The Basic Principle

During the debate on the address in reply to the Speech from the Throne on October 29, 1969, the present Minister of Regional Economic Expansion, Mr. Jamieson said,

"Somewhere, way back, we started from the assumption that everything was secret and that only the minimum possible information should be released. Surely a far better and more democratic approach would be to proceed on the assumption that everything is open, and only to withhold information from the general public when this is clearly necessary on the grounds of public interest or for security reasons."

On March 15, 1973, the President of the Privy Council, Mr. MacEachen, tabled in the House of Commons "an outline of the government's position with regard to notices of motion for the production of papers" in Parliament (Cabinet Directive No. 45), setting out for the first time the guidelines which the government would use in responding to such notices. During the debate Mr. MacEachen said,

"I endorse fully the statement that was quoted, made at an earlier time by the present Minister of Regional Economic Expansion (Mr. Jamieson). What we have attempted to do here is to declare a general principle and then to say that there are exceptions to that general principle."

(As mentioned earlier, the guidelines or criteria were referred to the Joint Committee on Regulations and Other Statutory Instruments, where they are currently under study.)

In the light of these statements, some considerable headway has clearly been made in establishing the basic principle of "open access subject to agreed exclusions", at least in the provision of documentary information requested by Parliament. Taking into account the almost universal urging of those interviewed in the preparation of this report, it would seem that the time has come



to apply the same principle to the provision of government information in general. Indeed, I see it as the only logical basis from which to begin the long and laborious task of gradually changing the traditional and entrenched procedures, habits and attitudes of excessive caution and exclusivity which have prevented the formulation of an open, positive and publicly acceptable approach to the question in the past. In order that the principle may be workable, it is absolutely essential that both government and the public clearly understand what is to be withheld, why, and for how long.

## 2. The Criteria for Exclusion

The guidelines or criteria set out in Cabinet Directive No. 45 were the result of very careful research, and were exhaustively considered by Ministers before they were tabled in the House. Nevertheless, they were not considered to be definitive. In tabling them, the President of the Privy Council suggested to honourable Members

"that it would be useful to look at these guidelines, to consider them, to make argument about them and to determine whether they are sound in principle. If they are sound in principle, then we should attempt to administer them properly. If they are unsound in principle, then we should change them."

They were then referred to the Joint Committee which, for lack of staff, did not hold its first meeting until January 8, 1974. As the Committee was unable on that occasion to consider the substance of the criteria, and as Parliament adjourned shortly thereafter, I met with the co-Chairmen, Senator Forsey and Mr. Gordon Fairweather, to seek their initial and informal views as to the adequacy of the criteria. Subject to views which would be expressed in due course by the Joint Committee as a whole, the co-Chairmen accepted certain of the criteria and questioned others. A general criticism which they made was that the criteria as stated were broad and difficult to define, and did not always make clear the underlying principle to be served, or in other words, the kind of damage that might ensue if information falling under one or another criterion were prematurely released.

In order to meet some of these objections (which had also been made earlier by several editors and journalists), I have attempted to redraft these criteria, adhering to essentially the same principles, in such a way that they might form the basis for the application of the "open access" principle referred to above, not only in relation to providing documents to Parliament, but also for the release of government information in general. They and their accompanying examples are intended as a basis for further examination, discussion and debate, with a view to arriving eventually at a set which might be generally acceptable both to government and the public, subject to modification in the light of further experience.





Their consistent and effective application would depend in large part upon the relatively easy identification of any particular document or other piece of information as one which came, or did not come, within the terms of one or another of the criteria for exclusion. The marks of identification, and the justification of their use, would therefore be of primary importance in indicating, on or within any particular document, whether and when it should be made available, and the degree of protection it would require until it were made available. I will attempt to describe later what these marks might be, and how they might be made to work in practical fashion.

The suggested criteria for exclusion from *the documents*  
~~immediate availability~~ are these: *that would*

~~"Information, the release of which would~~

A be detrimental to the safety and security of the nation: for example, information describing

- (1) tactical and strategic defence plans, operations or exercises, including the characteristics of equipment and techniques, and the scale, movement and placement of forces, except where the considered and authorized release of such information would assist in the deterrence or prevention of war-like action;
- (2) internal and external intelligence and security plans, operations or exercises, including the characteristics of equipment and techniques, and the scale, movement and placement of personnel, except where the considered and authorized release of such information would assist in the deterrence or prevention of actions, whether internally or externally inspired, calculated to displace democratic institutions or procedures by force or violence;
- (3) diplomatic plans and negotiations whose essential purpose is the maintenance of the safety and security of the nation.

B be detrimental to the effective pursuit of Canada's interests in international relations; for example,

- (1) aspects of a negotiatory process (strategy, tactics, fall-back positions, etc.) which would give another nation unfair advantage;
- (2) analyses of, or commentaries on, the domestic affairs of another nation, except where the considered and authorized release of such information would fairly and equitably serve Canada's interests;
- (3) views, reports and other information given in confidence by officials or governments of other nations, without their consent that it be released.



- C be detrimental to the performance and fulfilment of the federal government's constitutional duties and obligations in its relations with the provincial governments, giving due regard to the constitutional duties and obligations for the provincial governments; for example
- (1) aspects of a negotiatory process leading to federal-provincial agreement (strategy, tactics, fall-back positions, etc.) which would give one government unfair advantage over another;
  - (2) analyses of, or commentaries on, the intentions and actions of provincial governments in areas of sole or shared constitutional jurisdiction, except where the considered and authorized release or such information would serve the overriding interests of Canadians as a whole;
  - (3) views, reports and other information given in confidence by provincial officials, Ministers or governments, without their consent that such information be released.
- D constitute an unjustifiable invasion of privacy, or would be demonstrably and unjustifiably harmful to an individual; for example
- (1) information reflecting on the personal character, competence or reputation of an individual, as might be contained in the personnel and security clearance files of government employees;
  - (2) personal and/or confidential correspondence between citizens and government, or personal information assembled for a specific governmental purpose and stored in data banks, where the desire for confidentiality lies with the citizen;
  - (3) Ministers' correspondence of a personal nature, or dealing with constituency or general political matters of an essentially partisan nature.
- E jeopardize a government process of financial or commercial negotiation or a contractual arrangement, or result in undue financial loss or gain by any person or group of persons; for example
- (1) elements of the Budget, prior to its presentation in the House of Commons;
  - (2) details of negotiations with other governments or with national or international commercial organizations prior to the conclusion of a contract or agreement;





- (3) official information relating to proposals, negotiations or decisions concerning alterations in the value of the currency, or relating to the extent and movement of, or threats to, the reserves prior to official and authorized announcement;
  - (4) details of proposed government land or property purchases, or proposed price or other controls the establishment of which is intended to meet a critical situation.
- F jeopardize the confidence necessary to the advisory, consultative and deliberative processes of government administration; for example,
- (1) internal memoranda or correspondence between or among officials and ministers, the release of which would reduce the quality (frankness, honesty, objectivity) of such views exchanged in future;
  - (2) draft and working papers prepared intra- or inter- departmentally, or on their behalf, except where the authorized release of such papers would assist the government in determining the public will in order to serve the public interest;
  - (3) draft and final submissions to the Cabinet, and draft and final minutes and decisions of the Cabinet, Cabinet Committees, interdepartmental and departmental committees;
  - (4) the preliminary or final results of the work of consultant bodies, Royal Commissions or other Commissions of Inquiry until the body (department, agency, or Cabinet) which had initiated the study, investigation or inquiry had had a reasonable opportunity to consider the implications of publication in the public interest.
- G jeopardize the integrity of legal opinions or proceedings; for example,
- (1) legal opinions or advice provided to the government, or privileged communications between lawyer and client in a matter of government business;
  - (2) criminal or other legal investigations of adversary matters concerning which final decisions are clearly the responsibility of the courts;
  - (3) official views or information concerning matters which are sub judice, where the release of such information could diminish the qualities of objectivity, impartiality and equity necessary to the judicial process.



prepared by the Department of National Defence the unauthorized release of which were judged to be "detrimental to the safety and security of the nation" would be marked "TOP SECRET(A)", "SECRET-(A)" or "CONFIDENTIAL(A)", depending upon the degree of damage that might result from its disclosure. The judgement as to which of these classification marks should be used would be made on the following basis:

TOP SECRET(A) - if the unauthorized disclosure of the information would result in exceptionally grave damage to the safety of the nation; ✓

SECRET(A) - if the unauthorized disclosure of the information would result in serious damage to the safety of the nation; ✓

CONFIDENTIAL(A) - if the unauthorized disclosure of the information would be prejudicial to the safety and interests of the nation. ✓

It will be noted that the wording of these definitions is almost precisely that of the definitions which have been in general use for many years in the United Kingdom and the United States, and in the collective defence context by all the other member nations of the North Atlantic Treaty Organization. Because of the extent to which Canada shares defence information with these nations, both within the NATO context and bilaterally, there are strong reasons for our retaining them - in the areas of defence, security, intelligence and related aspects of foreign affairs. There are equally strong reasons for our not applying these definitions to other areas of government administration, although we would necessarily retain the use of some of the same marks of classification (e.g. SECRET, CONFIDENTIAL, etc.), followed by an indication of the criterion under which the mark was used. For example, a document prepared by Statistics Canada, the unauthorized release of which were judged to "constitute a breach of confidence or of the law" (e.g. a document containing detailed census information) might be marked "SECRET(H)" or "CONFIDENTIAL(H)", depending upon whether the unauthorized release of the information would constitute a breach of the Statistics Act, or a breach of confidence that did not fall within the purview of that or another statute. 7

Take another example, in a more complicated but by no means unusual set of circumstances - the preparation of a submission to the Cabinet. Several months before it lands on the Cabinet table in final form, the submission may begin to take embryonic shape as a report prepared by the research division of a department or agency, in which the basic facts pertinent to the problem to be dealt with are assembled and analysed. Usually, such a report would not, or need not, contain conclusions other than of an analytic order, nor would it contain specific recommendations as to how the problem should be dealt with. As a document, its contents would probably not be in conflict with any of the criteria A to H set out in Section VIII-2 above, and if it did not, it would not require to be classified. Should it then be made public? And if so, why?



Within the terms of the basic principle set out above, yes, it should be made publicly available. Why? Because its availability would enable the public, and particularly those citizens directly affected by the problem,

- (a) to know that its government was taking action to meet the problem;
- (b) to understand the elements and complexities of the problem as initially perceived by the government;
- (c) to add to or modify the facts and analysis presented, in the light of their own direct experience and concerns;
- (d) to suggest possible means of dealing with the problem to their satisfaction; and
- (e) in general, to have some feeling that the many government-inspired expectations of "participation in the process of government" were capable of some degree of fulfilment, and not "just another hollow emanation from the echo-chamber of election promises".

(Parenthetically, it is not suggested that every one of the 1300-odd submissions made to the Cabinet every year is either initiated in this manner or could feasibly be let out to public scrutiny and response in its early stages. It is suggested, however, that this approach is not only feasible but would be substantively advantageous to government if it were taken in relation to even one-tenth of the policy or program proposals eventually submitted to the Cabinet.)

To proceed with the example, let us say that the basic facts and analysis have been modified in the light of public discussion, and some lines of possible solution have been proposed. A senior official of the department basically responsible, armed with his Minister's and Deputy's instructions and a working file containing the best advice and counsel available within his department, together with the collective deliberations of his own and other departments concerned, begins to draft a submission to the Cabinet. His working file might contain the following:

- (a) memoranda from three regional departmental directors setting out the private (but useful) views of provincial officials with related responsibilities, together with their own analysis of these views (marked CONFIDENTIAL(F), as their unauthorized release would, in the judgement of their authors, "jeopardize the confidence necessary to the advisory (and) consultative ... processes of government administration");
- (b) a letter from the Deputy Minister of Justice to the Deputy Minister of the initiating department setting out a legal opinion on an element of the proposal which was under consideration by the Supreme Court of one of the provinces affected (marked CONFIDENTIAL(G),





as its unauthorized release would, in the judgement of the Deputy Minister of Justice, "jeopardize the integrity of legal opinions or proceedings");

- (c) four internal memoranda setting out the frank, critical (and often conflicting) advice of four departmental directors who would share responsibility for implementing the proposed programme (marked CONFIDENTIAL(F), for the reasons given in (a) above);
- (d) the minutes of two meetings of an inter-departmental committee assembled to deliberate the budgetary, federal-provincial, and judicial aspects of the proposal (marked CONFIDENTIAL(F), as in (c) above; and
- (e) a memorandum from the departmental Director of Information, recommending the most effective means of explaining the issue and the programme proposed to deal with it, when the Cabinet has reached a decision and announced it. The memorandum includes the views and advice of the Executive Assistant to the Minister, and is also marked CONFIDENTIAL(F).

Having completed a draft of the submission to the Cabinet, the official marks it "Cabinet Document (draft) CONFIDENTIAL(F)", because in his judgement the overriding jeopardy inherent in its unauthorized disclosure would be to "the confidence necessary to the advisory, consultative and deliberative processes of government administration". He then sends it to the deputy minister who, if he approves its substance (and its classification), sends it on to the minister for signature and eventual submission to the Cabinet.

Well, I said it was complicated - and so it almost always is, and usually more so than I have suggested. The point I am trying to make, however, is that the classification of documents requires thought as to the justification for withholding it from public scrutiny, and as to the length of time it should be withheld in the public interest as reflected in the criteria. /L

#### 4. How Long?

How long? This was a question that was almost invariably and often belligerently asked during discussions of the classification of government information, and its eventual disclosure. How long should any piece of government information remain classified? Of course, there is no one, simple answer. As always, in a form of government that is in theory and in ideal "of, by, and for the people", there is the inevitable need to balance a bewildering range of ill-matched weights or interests - the individual and the collective, the short-term and the long-term, the apparently urgent and the really important, the frightening and the challenging, the known and the unknown - between and among which there is no common point of balance. Indeed, because living (with, under, in ignorance or in spite of, government) is a moving process, such points of balance as are apparent to some become fulcra, or points of leverage, to others, depending upon their motivations. I



therefore have no real hope of devising a universally acceptable formula for deciding when any particular piece of "government information" which falls within one or another of the criteria for exclusion should be made available to the public. It should, however, be possible to make certain arbitrary determinations as to when certain classes or categories of such information might be reviewed for the purpose of deciding whether or not they might be made available, and when.

Up to the present we have established roughly recognizable inner and outer limits, in terms of the time of release. At the inner limit, there are the kinds of information that do not fall within the exclusory criteria, and are made public at or shortly after the point of interim or final government decision on a particular problem, policy or programme, as manifested in the publication of White (or other) Papers, ministerial announcements and speeches, press releases and reports of one kind or another. At the outer limit there is the "thirty-year rule" under which the full range of government records, with a few exceptions, become automatically available through the Public Archives thirty years after their initiation. There is now a good deal of support within government (and much more outside government) for reducing this outer limit to twenty years.

As to the timing of release between these inner and outer limits, we are aware that some nations, in particular the United States, have attempted to apply arbitrary "declassification schedules" to categories of information, but without notable success. The reasons are obvious - it is virtually impossible to determine at the time of its preparation the relevance (or potential hurtfulness) inherent in the release of any substantial piece of classified information at any future point in time. The best consensus I was able to obtain, therefore, was that the substantive portions of departmental files should be reviewed periodically (every two, five, ten years?) to determine whether, when, and in what form such substantive information might be made available. In order that such periodic reviews might be made administratively feasible, it would be necessary as a matter of policy that any document of substance be given, at the time of its completion, an indication of a probable time of acceptable release, or at least a point of time in the near future at which it should be reviewed for that purpose.

It may seem on the face of it that the administrative load inherent in such a policy would be too great to bear, in terms of the apparent time, effort and cost involved. I think not, particularly if the other proposals set out below are accepted and implemented as an integrated approach.

##### 5. The Primary Source - the Cabinet

Of all the mechanisms of government, there is no doubt that the best-informed (and the one which arouses most public attention and expectation) is the Cabinet - yet it is perceived as being among the least informative, and in relative terms and as a collectivity,



it probably is. To make a purely quantitative and somewhat bizarre comparison: for most meetings of the Cabinet, each Minister is provided with, on the average, ten pounds of documentation related to the agenda. In most cases, the public information emerging from the meeting could be weighed in ounces, if not in grams. Admittedly, this is not a fair comparison, for a number of obvious reasons; but it does raise a legitimate question as to the validity of that degree of imbalance.

In more qualitative terms, the documentation provided to Ministers for meetings of the Cabinet is (or should be) based on some of the best resources of information, research, analysis and judgement to be found anywhere in Canada. Again, if one compares both the quantity and quality of effort put into preparing the documentation, and of the deliberation given it during the meeting itself, with the quantity and quality of what emerges publicly, one is again struck by the imbalance.

If one attempts to analyze the reasons for the imbalance, it becomes apparent that some are understandable and have some validity, while others have not been subject to critical scrutiny. For example, it is generally accepted without question that the actual deliberations of the Cabinet must be confidential, in order to preserve the essentials of Cabinet solidarity and collective responsibility. It follows that the agenda, the submissions for consideration, and the minutes of the meetings must be confidential, and remain so for an acceptable period of time, to ensure, as the Secretary to the Cabinet has explained, "that their publication can have no significant effect on the relations between and the reputations of public men who have worked together in Cabinet and who may have to do so again". It does not follow, however, that all of the information contained in the documentation, or emerging from the Cabinet's deliberations, need remain confidential. Yet much of it does, except for those portions which appear in the form of a Ministerial announcement, a bill tabled in the House of Commons, a press release, or a public relations programme, usually devised after the decision, and not as an integral part of it, if indeed one is devised at all.

A central reason for this apparent imbalance would seem to be that the general thrust of policy in relation to information has tended to be protective rather than forthcoming, and most of the policy guidance in terms of what should be withheld rather than what should be made available. For example, until 1969 there was no reference whatever in the "Guidance Notes on the Preparation of Cabinet Documents and the Conduct of Cabinet Business" to the seemingly basic requirement to explain publicly the issue being treated in the document, or the rationale underlying the Cabinet decision arrived at in relation to that issue. In December, 1969, the following instruction was included in the "Guidance Notes":





"Public Relations Considerations: The Memorandum should indicate the public relations aspects of the proposal and whether a public announcement or a public information program is necessary."

Hardly a clarion-call; indeed, it seems to ask, "Need we make anything public?"

Recently, steps have been taken to reinforce and amplify, for the benefit of departments and agencies preparing Cabinet Memoranda, ministers' need for a clear and comprehensive public information plan to complement their consideration of policy proposals. This decision marks a very considerable improvement in approach, although it must be said that the departmental and agency response has not so far been prepossessing. I think it could be massively strengthened if the following related steps were also taken, based on firm and clear policy instructions:

- (a) that each Memorandum to the Cabinet and its supporting documents form the basis of the "communications plan" required;
- (b) that the departmental or agency Director of Information be fully aware of, and required to participate substantively in, the preparation of the submission to the Cabinet from its inception;
- (c) that the Director of Information, in consultation with the operational and senior management officials directly concerned, be required to draft a "plain-language" summary of the facts and analysis underlying the proposed policy, programme, draft bill or draft regulations, with a view to having the summary made available to Parliament, the media, the public, and the public service as soon as possible after decision by the Cabinet, together with such other supporting documents, or such portions of them, as would not fall within the exclusory criteria set out in Section VIII-2 above.

There are several reasons why the public might legitimately regard the Cabinet, and why the Cabinet might regard itself, as the primary source of information concerning the government's policies and programmes. As I mentioned earlier, its deliberations inevitably arouse a good deal of interest, speculation and expectation. Further, it is the point in the process of government where "it all comes together", where there is a greater degree of "completeness" in terms of information, authority and responsibility than at any other point in the process. It is therefore uniquely equipped to initiate and to direct the crucial function of enabling the public to understand and appreciate its efforts in their behalf - and yet it is generally regarded as some sort of secret, remote and mysterious cabal, a symbol of the apparently growing gulf between government and governed.



This may seem to some a jaundiced and exaggerated view. I feel obliged to say, warningly if necessary, that it is not. It is a view increasingly held by a surprising number of younger, educated Canadians, particularly senior students at the universities and community colleges, many of whom have completely lost faith in the "relevancy" of the larger governmental institutions, and who are directing their efforts in wholly "extra-parliamentary" areas and pursuits within smaller and more understandable communities - "where the real action is" - and I am assured that they are not simply "the long-haired radical fringe" of the late sixties, nor are they to be dismissed as unimportant to the country's future.

#### 6. Availability

Assuming that the proposals set out above are considered reasonable and desirable, it might properly be asked, "How is all this information to be made available, and to whom?" Before attempting to answer, I think it is important to distinguish between the automatic provision of unsolicited information on the one hand, and the availability of information on request on the other. Failure to draw this distinction in the past has undoubtedly contributed to waste, inconsistency, confusion, irritation, and in general has done self-defeating service to the enhancement of public knowledge. Much of the unsolicited information provided is regarded with skeptical suspicion, whereas much of that requested has been difficult or impossible to obtain, at least in the time and in the form required. A wise Senator said, "Look here, there's a point beyond which the onus should be on people to ask for the information they need - and when they do, it should be given them, to the extent you can. Unless the stuff you hand out meets those needs, they won't trust it, and I don't blame them. They see it as a nuisance, and a waste of their money."

As to the availability of information on request, surely the obvious mechanism is Information Canada. One of the reasons why that organization is still widely regarded as "a solution in search of a problem" is that it has not been extensively utilized to serve one of its original purposes, because departments and the government as a whole have been reluctant to provide it with the information necessary for it to be credible, either as a central repository of information or as a nerve-centre for the retrieval of information from departments and agencies. There is no question that departments will, and must, retain the basic responsibility for the production and content of information about their operations; but it seems equally obvious that they could be assisted by Information Canada in the formulation of a communications plan and in the later stages of availability and distribution.



Information Canada was asked to describe, in practical, "nuts and bolts" terms, how they would cope with a regular flow of information such as that which would result from implementation of the proposals made above concerning Cabinet operations. Their description is as follows:

"Procedure Involved in the Release of Documents

Information Canada has been developing for three years a system which provides for the accurate recording and speedy retrieval of information on federal government departments, policies, programs and services. This system is now in use in all of Information Canada's enquiry centres.

To date, 20,000 items have been stored in the data base, and by March 1975 this number will be 60,000. Each item is catalogued according to catalogue number, title, author(s). An abstract is produced and subjects are assigned and entered into a thesaurus. This information is reproduced on 3" x 5" cards and distributed to the regional centres in each province. The information then is readily accessible by subject across Canada.

The flexibility and completeness of the system, designed for public consumption and nationally accessible, make it an ideal central point for the release of documents stimulated by an open access policy. The following procedures would be easily implementable:

- 1) Documents released by departments and agencies or the Cabinet are forwarded to Information Canada.
- 2) An accession number is assigned to the item.
- 3) An abstract for the item is produced and entered into the system.
- 4) The document is returned to the originating department where it is filed according to the accession number.
- 5) The document can then be found by subject, and can be obtained through the department or any Information Canada centre.
- 6) Plans are underway to computerize the system. At that time, a secret compartment will be included and confidential documents will only be available through passwords and codes until declassified.
- 7) A daily Index of available documents would be distributed to Members of Parliament, the Press Gallery and other persons and institutions having expressed their interest in the service, and the Index would be posted in all Information Canada centres and other key private and public buildings across Canada."

In order to avoid costly duplication, it would seem desirable that all existing indices of available government information, i.e. those in Information Canada, Government Printing Operations, the Parliamentary Library, and the Public Archives be examined with a view to achieving the greatest possible coordination and compatibility.





It is not suggested that these proposed procedures would or should totally eliminate the need to provide some measure of unsolicited information to Parliament, the media and the general public. They would, however, assist in making sharper judgements as to the form, direction and quantities of unsolicited information to be provided, and in deciding which information should be available on request - in essence, a more qualitative approach in both form and substance. The savings should be considerable, and there is little doubt that the results would be more rewarding.

#### 7. Public Influence on Public Policy

In the immediately preceding paragraphs I have discussed means by which information might be made available to the public after decisions have been taken by the government on policies and programmes. It is perhaps equally important that as much information as possible about the problems facing government and the country be made available for public consideration, debate and "feed-back" response before policy decisions are taken. My discussions with Deputy Ministers indicate that several departments and agencies prepare, on a continuing basis, a wide variety of studies of an essentially factual and analytic order, preparatory to formulating lines of policy or programme action. In most cases the deputies felt it would be useful and advantageous to make many of these studies available to Parliament and the public as a means of obtaining reactions which would assist in determining the best and most acceptable means of dealing with the problem at hand. They had, however, felt inhibited by the lack of a coherent policy and agreed procedures for the release of such material.

I would therefore propose that, as an initial step, all departments and agencies be asked to examine reports of this kind which they have prepared, with a view to forwarding copies to Information Canada for listing on the daily index of available documents referred to above. As a further step, Directors of Information in departments supplying such studies and reports should be asked to consider means of ensuring that their availability is known to the "publics" most directly concerned, and means of obtaining their responses. The underlying purpose should be the positive creation of an informed Parliament and public as well as an informed government, and such studies should be undertaken with this purpose in mind from the outset.

#### 8. Means of Response and Guidance

As noted in an earlier section, there is need for improvement in the attitudes and capacities of federal employees in the regions, particularly in order that those less-articulate and less-privileged citizens might be better served through sympathetic responses to their needs and worries, and given effective assistance and guidance in seeking solutions to their problems. Some have argued that this is not a function of "government information", and is a kind of "social work" which should be performed by local and provincial agencies. I seriously doubt that the line can be drawn that clearly, particularly if it results, as it so often has, in citizens being "turned off" the federal government because it does not provide trustworthy, non-intimidating and personal contacts with its employees in the field.



This again is an area in which federal field representatives, working closely with Information Canada and with local authorities and institutions, can establish a kind of "federal presence" that will never be replaced by flags, logos, bilingual signs or any other symbols. Some departmental and Information Canada employees are doing it in some areas, and with gratifying results - vide Information Canada's pilot projects in Nova Scotia and Manitoba - but it is clear that a much broader and more consistent effort is required, based on the recognition that it is a natural dimension of the duty of every public servant in contact with the general public

- (a) to assist citizens in understanding and exercising their rights as well as their obligations in relation to programmes and policies;
- (b) to assist the citizens in their communities in assessing the effectiveness or otherwise of those policies and programmes;
- (c) to ensure that the citizens' views are fully known and understood by their superiors, both in the field and at headquarters in Ottawa; and
- (d) to regard their function as federal representatives in the regions as a cooperative, not a competitive, process.

"Motherhood stuff?" Perhaps - but certainly not according to members of Parliament, nor to many a bewildered citizen trying to solve an immediate problem concerning taxes, pensions, unemployment, welfare, housing, or just earning a decent living.

Certainly, much is being done by the federal authorities to meet these problems. My suggestion is simply this - that those efforts will be better understood and appreciated, and will be more effective, if a more coordinated and informed effort is made to imbue public servants with the obligation to explain, to listen, to respond, and to assist. Certain proposals to this end will be put forward by Information Canada, presumably taking into account the report of the Standing Senate Committee on Finance.

I would further propose that serious consideration be given to improving and rationalizing the existing means of telephonic contact between citizen and government, including the use of toll-free lines wherever possible, terminating in central switchboards which are adequately staffed by persons trained in the concepts of public service. In a country as huge as this one, the telephone is usually the first and sometimes the only means of



personal contact between citizen and government. If citizens have a right to communicate with their governments - and surely there is no argument about that - then surely government has an obligation to assist them to do so, and to respond positively when they do. We have for too long placed too high a price-tag on our geography.

#### 9. Accessibility to Public Officials

If federal representatives in the field are required to assume and perform duties of the kind suggested above, should deputy ministers and other senior officials in Ottawa be similarly obliged? It was a question often asked, and seriously, not only by journalists with fairly obvious motives, but also by many members of Parliament experiencing difficulty in creating a base of information and understanding of government operations which would enable them to serve their constituents adequately. Both groups urged that they be granted more regular and informal access to senior officials, singly or in small and manageable groups. In reply to arguments that the schedules of most conscientious deputies and senior officials were such that they found very little time to spend with their families and friends, much less with others outside their immediate work, the usual response was

"If they regarded a little time spent with us as a legitimate part of their work, they wouldn't have to spend so much time defending themselves and their Ministers against what we say in our papers or in our constituencies or in the House."

While there have been improvements in recent months in contacts between senior officials and the media, there appears to remain an unnecessary and counter-productive gulf between officials and members of Parliament. I was particularly struck by the general impression which many younger members seemed to have of deputy ministers and senior officials as being aloof, remote, superior and condescending in their attitudes toward the House and its Members. It seemed to me that the attitudes of frustration, suspicion and animosity surrounding this general impression could hardly improve the image of the federal public service in these members' constituencies, and I must add that the impression was by no means confined to opposition members.

There is no simple or easy proposal I could make which would help dispel these often quite mistaken impressions. Officials will continue to be reluctant to discuss the substance of "spicy" policy matters, whether with journalists or Members, for fear of encroaching on areas of ministerial responsibility and authority. Ministers, however, may wish to consider the value of authorizing their senior officials to respond more positively to journalists' and Members' requests for "backgrounding" interviews, or other informal contacts, and indeed to arrange periodic "bull-sessions" among groups of officials, journalists and Members on issues of common interest - preferably to be held as often as possible in the regions, and not exclusively in the sometimes unnatural "hot-house" atmosphere of Ottawa.





In emphasizing the importance of making better use of Members of Parliament as vehicles for the provision of information and explanation, I would equally emphasize the importance of direct communication between government and citizen. Too heavy a reliance on the mass media as the major means of transmission poses a number of dangers. By their very nature, the media must sell their wares in short, dramatic, and usually disconnected "surprise packages", to arouse daily, but necessarily evanescent, interest. The "news story" approach to government information often leads to fragmentation and distortion, and if anything is as yawn-making as yesterday's news, it is a government attempt to correct or clarify an inaccurate or ill-informed story, article or commentary after the event.

#### 10. Information Services and Information Canada

A flood of ink has been spilled over the functions of departmental information services and those of Information Canada, and I have no illusions that what I am able to propose will end or even noticeably stem the flow. However, some lines of approach do emerge, and if they are taken in the context of the general approach I am suggesting, a more rational sharing of the basic function of increasing public understanding of government should result.

I have suggested earlier that if the elements of the so-called "information function" of government are to explain, to guide, to direct or redirect, to listen, to enable, and to persuade, then the function is in essence woven into and inseparable from the function of government itself. If that is true, it follows that every public servant, elected or appointed, has an obligation to share the function in some degree. While I believe the premise is both sound and important, practical necessity dictates some specialization and its rational allocation in terms of "who can best do what, with whose help?"

I believe it is within this framework that the related roles of departmental information services and Information Canada can best be clarified and delineated. To begin with, it seems clear that departments and agencies must remain responsible for deciding in the first instance what information concerning their operations should be made available, and who needs it. It is in answering the "how?" questions related to the process that Information Canada should be of greatest assistance to them, and to government as a whole - questions such as

- (a) how do we make it intelligible and helpful?
- (b) how do we best get it to those who need it?
- (c) how do we assess its effectiveness?
- (d) how do we train our information people?
- (e) how can we avoid duplication of effort?

and there are others. In present circumstances, I suspect Information Canada would say, "Great - but how do we get the departments to ask us those questions?" However oversimplified, this seems to be the dilemma with which Information Canada, and the government, are faced, and I doubt that it can be solved by diktat.



I have suggested above that there are several areas in which Information Canada could usefully expand or add to its existing functions as a central service agency; these are

- (a) as a central mechanism of availability of information;
- (b) as a source of advice and expert assistance in the presentation and direction of information, and on whether to "make or buy" information programmes;
- (c) as a necessary complement to departmental operations in the regions; and
- (d) as a training resource.

I would propose that the future role of Information Canada be defined in these terms, taking into account such recommendations as may be made by the Standing Committee of the Senate on National Finance in its report.

To turn now to departmental and agency information services; if any proposal I made were to reflect accurately the views of most of those interviewed, within and outside government, it would simply be "fire or retire the worst half, and put the rest on a direct reporting line to their deputy ministers". The suggestion is, of course, far too brutally simple, but it does reflect the central concerns I encountered, related to ability, influence and numbers within the "information community" in the public service. Looking beneath these concerns for their real causes, I have to conclude that the original causes lie at least as much with Ministers, deputy ministers and heads of agency, past and present, as with the information officers themselves. For a variety of reasons, some of which have been suggested earlier, only a very few Ministers or deputy heads have regarded information as an integral function of government in general or of their statutory departmental role in particular. Many have tended to regard their information staff as "the P.R. boys, who are always boozing it up at the Press Club when you need them". Until recently, very few Directors of Information were regular members of departmental Senior Management Committees or their equivalent, and many are still not. In some cases, too, such membership is more a matter of form than of substance. Some deputies say "I really could use a good information man among my senior advisors, but look at the guy the Commission gave me - he looks good on paper, but he knows damn-all about the department, and I can't trust him!"

There are of course exceptions, but in those few departments in which deputies speak appreciatively of their information directorates, and *vice versa*, there is solid evidence that the information output is regarded by its users and transmitters with respect and appreciation. In each of these departments there seems to be a mutual recognition of the interdependence of senior management and the information staff, based on trust, confidence and ability.



How can this kind of interdependence be enhanced in all departments and agencies? One key may lie in requiring, as I have proposed above, that Directors of Information be made fully aware of, and participate substantively in, the preparation of submissions to the Cabinet and other policy and programme initiatives from the time of their inception. I believe it is a mistake to regard information officers as being relevant only to the implementation of government initiatives, and not to their formulation. They should be, and the good ones are, valuable sensors of public opinion, mood and concern. Their participation in the formulation of policies and programmes should materially assist government in recognizing the seemingly obvious but often forgotten requirement of the system that, whatever government does, it must sooner or later explain, and that there is an apparent relationship between late explanations and lost elections. Related proposals are that the Directors and their staffs, in consultation with operational and senior management staffs, be required to prepare a "plain-language" summary of the facts and analysis underlying the proposed policy, programmes, draft bill or regulations for release at or shortly after Cabinet or Ministerial decision, and that the material prepared for the Cabinet form the basis of the "communications plan" now required as a matter of policy. By these means, information staff will inevitably be required to learn much of the detail of departmental operations, and to understand more clearly the nature of their role in explaining these operations to the public, and in assisting their seniors and their Ministers to do so. An important added advantage of this approach is that it would enable deputies to make better assessments of the present and potential capacities of their information staff, and a more accurate judgement of the numbers and levels of such staff which are actually required. The process should also have the result of "spotlighting" operational and managerial staff members who have real potential in the information field, bearing in mind the obvious value of a combination of these skills.

#### 11. Security, "Leaks", and the Law

I have suggested earlier that, if an orderly and rational approach to the provision of government information to the public is to be adopted, it is equally necessary to adopt such an approach to the protection of information which must, even temporarily, be withheld from the public. Such an approach would require

- (a) the adoption of a set of criteria for exclusion from release such as is suggested in VIII 2 above;
- (b) a system of classification directly related to the criteria, enabling distinctions to be drawn between and among the various purposes to be served in classifying information, and indicating the degree and duration of protection required;
- (c) consideration of the abandonment of the classification "Restricted", as recommended by the Royal Commission on Security;





- (d) a review of the policy and procedures concerning the security clearance of personnel and physical security, with a view to ensuring that their application is limited to areas where they are fully justified;
- (e) a review of pertinent legislation (Official Secrets Act, Criminal Code, Public Service Employment Act, Financial Administration Act, etc.) and of the Oath of Office and Secrecy, with a view to providing effective legal or administrative sanctions for the unauthorized release of information in breach of the principles inherent in the criteria for exclusion; and
- (f) a full and explicit public explanation of the damage that results from "leaks" of government information, and of the sanctions that will be applied.

Some of the reviews referred to at (d) and (e) above have already been begun, in the Privy Council Office, in the Ministry of the Solicitor General, and in the Department of Justice, based on an earlier recognition of their need, stimulated in part by the Report of the Royal Commission on Security of 1969. I would suggest that that work be accelerated, and coordinated by the interdepartmental Security Advisory Committee, augmented by representatives from other departments concerned. The very useful "spade-work" manifested in the Franks Report published by the government of the United Kingdom in 1972 should be utilized to the full, particularly in the framing of legal and administrative sanctions for unauthorized disclosure, and in the modernization of the present Official Secrets Act.

#### IX. A Few Final Thoughts

As I said at the beginning, the main emphasis of this report has been on the provision of information to Parliament and the public, and on the balance which must be struck between that obligation and the related obligation to protect information from harmful abuse. There are two important and related matters which I have only hinted at - the exchange and dissemination of information within government, and the coordination and monitoring of the flow of information with a view to interrelating the myriad bits and strands in the broader context of the major policy thrusts of government in order that they might be understood and evaluated. I have no magic formula or mechanism to propose, but I urge that these requirements be studied within the framework of the broad approach I have attempted to set out.

It may seem to some that this approach is a counsel of perfection, impossible of attainment. I am aware of the impressive bureaucratic skills that are sometimes exercised to demonstrate why something cannot be done; but I am more than equally aware of the positive potential of those skills under the right stimulus and direction. What I am proposing is neither



new nor earth-shaking - it is, in fact, largely an extension and rationalization of certain principles and practices which have already been accepted. The major change proposed is one of attitude, and I do not for a moment underestimate the difficulty of achieving it. I am deeply convinced, however, that such a change is both necessary and possible.

Some will undoubtedly argue that to provide a better flow of information is merely to provide more targets for critics to shoot at. Despite its apparent realism, I think this is a dangerously short-sighted view, and one which has led to many of the present difficulties. It suggests that "what they don't know won't hurt us" - but surely experience has made it clear that information unjustifiably withheld almost inevitably finds its way out, and usually in circumstances which provide not one but several targets for critics, some of them impossible to miss. Not only the government, but the whole process, suffers as a result.

I have attempted in this report to examine one of the most important functions of government, to indicate its failings and weaknesses, and to devise a broad and integrated approach which should enable its better performance. As the elements of the approach are interrelated and interdependent, I would urge that it be considered as a whole and not piecemeal. It is for this reason that I have not set out specific recommendations. It is the forest that needs contemplation, before decisions are made as to which trees need nourishment, which need to be cut, and which need to be planted.

I am most grateful to all who have so generously assisted. I share their hope that this study will at least illuminate the fact that we are "stuffed with information and starved for understanding", and that it may throw some light on a better way ahead.





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